IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 4TH DECEMBER 2007 / 13TH AGRAHAYANA 1929

Bail Appl..No. 7340 of 2007()

CR. NO.1/2007 OF UDUMBANCHOLA EXCISE RANGE
CRMP.86/2007 of SPL. COURT (NDPS ACT CASES), THODUPUZHA

.....

PETITIONERS/ACCUSED NOS.1 AND 2

---

1. SUNNY THOMAS
AGED 42 YEARS,S/O. THOMAS,
EDAKKARACHEENKALLEL HOUSE
MUNIYARA KARA, KONNATHADY VILLAGE.

2. MELBIN,S/O. GEORGE
MOOLEPARAMBIL HOUSE
PERINCHAMKUTTY KARA
KONNATHADY VILLAGE.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS: COMPLAINANT

STATE OF KERALA THROUGH THE
CIRCLE INSPECTOR OF EXCISE, UDUMBANCHOLA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 04/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

- -

B.A.No. 7340 of 2007

- -

Dated this the 4th day of December, 2007

O R D E R

Application for regular bail. The petitioners face allegations under the N.D.P.S. Act. 68.4 kgs. of ganja were allegedly transported by them in a jeep. They were intercepted by the officials on 23.8.2007. They were arrested and they continue in custody from that date. The jeep had secret chambers constructed in it to facilitate transport of ganja. Investigation is in progress. Final report has not been filed. The learned counsel for the petitioners submits that the petitioners are innocent. He prays that the petitioners, who have remained in custody for the past more than three months may now be enlarged on bail.

2. The learned Prosecutor opposes the application. He submits that the investigation is not complete. The quantity of ganja transported exceeds the prescription of commercial quantity. The nature of the offence and the quantity of the article seized must convey to the court a clear idea of the dimension of

the crime in which the petitioners had indulged in. The petitioners may not be granted bail at this stage. Reasonable time may be granted to the Investigators to complete the investigation, prays the learned counsel.

3. In the wake of opposition by the Public Prosecutor regular bail can be granted to the petitioners only if this court is in a position to entertain both the satisfactions contemplated under Section 37 of the N.D.P.S. Act. In the facts and circumstances of this case, I am unable to entertain either of those satisfactions. The learned counsel for the petitioners submits that the opposition of the State is not bonafide or justified. Such opposition cannot be reckoned as a satisfactory and sufficient opposition to attract the play of Section 37 of the N.D.P.S. Act, submits counsel. I am unable to accept this contention. In the facts and circumstances of this case, I am unable to agree that the opposition by the Prosecutor is not justified. I am satisfied that the petitioners are not entitled to be released on bail now.

5. This application is, in these circumstance, dismissed. But I may hasten to observe that the petitioners shall be at liberty to move

this court or the courts below for bail again at a later stage of the investigation, not at any rate, prior to 18.12.2007. The Investigators shall, in the meantime, make every endeavour to complete the investigation.

(R. BASANT)
Judge

tm